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One Hundred Eighth Congress
U.S. House of Representatives
Select Committee on Homeland Security
Washington, DC 20515

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DAVID SCHANZER
*DEMOCRATIC STAFF DIRECTOR AND
CHIEF COUNSEL*

MARK T. MAGEE
DEMOCRATIC DEPUTY STAFF DIRECTOR

July 21, 2004

Dear Chris:

At the beginning of this year, you announced, with my enthusiastic support, that the Select Committee would embark on a historic effort to write the first Department of Homeland Security Authorization Act. Our Committee held over a dozen hearings with leaders of the Department to review their fiscal year 2005 budget requests, and staff received detailed briefings on the full range of the Department's programs.

In April staff began drafting the bill and exchanging their ideas of provisions to include in the authorization bill. At no stage in the process was there ever a suggestion that the bill would do anything but cover the full range of the Department of Homeland Security's activities.

In May, Democrats on the Committee introduced six homeland security bills on a variety of topics and submitted the language to you for possible inclusion in the authorization bill. Bipartisan negotiations had resulted in compromises on a variety of topics, including aviation, port, and rail security, critical infrastructure protection, and border security.

Yet, when a "discussion draft" was finally circulated to all Committee members in early July, the product of those bipartisan negotiations had been stripped from the bill, with the notable exception of the cyber security and the science and technology sections, which had been a fully collaborative effort between Mac Thornberry and Zoe Lofgren. What remained was a threadbare bill that addressed few of the major homeland security challenges that face this nation.

While disappointed at this result, we recognized the prerogatives of the majority to craft a bill and proceeded to develop amendments to address the many areas that we believed had not been adequately covered. Then, upon our return from the Independence Day recess, you and I had a lengthy series of meetings to discuss the process by which the Committee would consider the legislation. At the end of that process, we agreed that the full bill would be marked up by the Committee, that amendments relating to the activities of the Department of Homeland Security would receive a vote on the merits, and that after all amendments had been disposed of, we would vote to approve the entire bill and then report out each title as separate bills, so they might have a chance of moving through the legislative process on their own.

Last week the clerk noticed the markup and circulated a “Committee Print” consisting of the entire bill. Since the pre-filing deadline came before the final draft bill had been circulated, many members filed duplicative amendments in differing forms so to preserve their options during markup. While the number may have seemed larger, in reality there were about three dozen or so amendments filed by my colleagues and I that would have required consideration, which, from my experience on the Armed Services Committee, is not unusual for a departmental authorization bill.

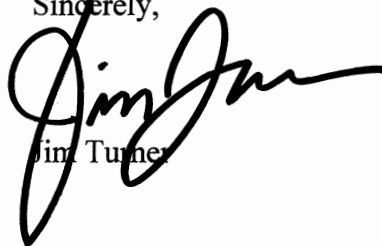
On Friday evening, however, after the close of business, the markup was re-noticed, not for the entire bill, but for nine separate bills each comprising one of the titles of the original authorization bill. After consultation with the Parliamentarian’s office on Monday, it became clear that this tactic had rendered many of the key Democratic amendments to be ineligible for a vote on the merits. Staffs met throughout the evening to develop a list of amendments that were germane and began recrafting other amendments so they might be considered in order for a vote. Our members were all available and we were ready to continue until the nine titles had been completed, no matter how long it took. Nonetheless, you postponed the markup.

Last night you informed me that the markup would begin on Thursday afternoon, but that only the first three individual titles would be considered. Only two Democratic amendments relate to these titles, one of which has already been agreed to.

This process is unacceptable. The abbreviated markup you propose is strategically crafted to avoid debate and votes on key homeland security issues. We firmly believe that if a vote were permitted on many of the amendments we propose, they would pass with strong bipartisan majorities. It is difficult to comprehend why then, when our nation is reportedly at the highest threat of attack since September 11, our Committee would not want to consider and debate the full range of homeland security challenges that confront this nation. Failing to consider these core issues (rail, port, and aviation security, border protection, interior immigration enforcement, chemical plant security, nuclear plant security, critical infrastructure protection, interoperable communications for first responders, private sector emergency preparedness, and coordination of air defenses), is, an abdication of our constitutional responsibilities.

On Monday, July 19, you introduced the complete authorization bill, H.R. 4852, which was referred to the Select Committee. I believe that we should proceed to consider this bill in full on Thursday, as well as consider the full range of amendments to all parts of it – fully consistent with our original agreement.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim Turner". The signature is stylized with a large, looping "J" and a long, sweeping underline that extends to the right. Below the signature, the name "Jim Turner" is printed in a small, black, sans-serif font.